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*Promoting and protecting the health of the public and the environment.*

**OFFICE OF GENERAL COUNSEL**

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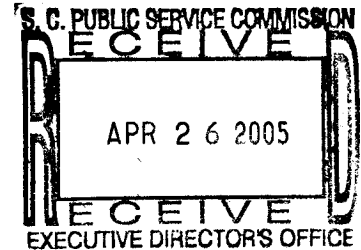
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Coleman F. Buckhouse, MD

April 25, 2005

The Honorable Charles L. A. Terreni  
Chief Clerk/Administrator  
SC Public Service Commission  
P.O. Drawer 11649  
Columbia, SC 29211



**Re: Docket No.: 2004-357-WS**

**Carolina Water Services, Inc., Application for Adjustment of Rates and Charges  
and Modification of Certain Terms and Conditions for the Provision of Water  
and Sewer Service**

Dear Mr. Terreni:

Please find enclosed for filing the original and seven (7) copies of the South Carolina Department of Health and Environmental Control's *Intervenor's Response to Applicant's Motion for Order Prohibiting Introduction or Admission of Testimony* along with a *Certificate of Service* in the above-referenced case.

Please date-stamp the one extra copy for our office and return in the enclosed self-addressed stamped envelope provided.

By copy of this letter, I am serving the necessary parties. Thank you for your assistance in this matter.

Sincerely,

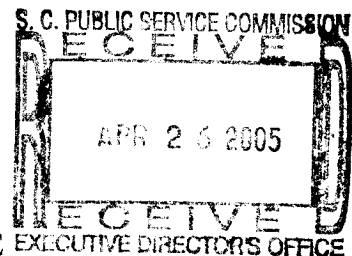
Angie Gehr, Paralegal

Enclosures

cc: Jessie J.O. King, Esq.  
Florence Belser, Esq.  
C. Lessie Hammonds, Esq.  
John Hoefer, Esq.  
Scott A. Elliott, Esq.  
Charles Cook, Esq.  
Jeff deBessonnet, BW

STATE OF SOUTH CAROLINA  
BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

DOCKET NO. 2004-357-W/S



Carolina Water Service, Inc. – )  
Application for Adjustment of Rates )  
And Charges and Modification of )  
Certain Terms and Conditions for )  
the Provision of Water and Sewer )  
Service )

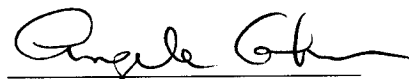
**CERTIFICATE OF SERVICE**

The undersigned for the South Carolina Department of Health and Environmental Control, ("DHEC"), states that she has on April 25, 2005, served upon the parties of record DHEC's *Intervenor's Response to Motion for Order Prohibiting Introduction or Admission of Testimony* in the above-entitled case via first class mail with proper postage affixed as follows:

Florence P. Belser, Esquire  
C. Lessie Hammonds, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, South Carolina 29211

John M. S. Hoefer, Esquire  
Willoughby & Hoeffler, P.A.  
Post Office Box 8416  
Columbia, South Carolina 29202-8416

Scott A. Elliott, Esquire  
Charles Cook, Esquire  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, South Carolina 29205

  
Angela Gehr

Columbia, South Carolina  
April 25, 2005



Commission and should be decided based upon 1) the circumstances surrounding the failure to meet the time requirements, 2) the extent of the variance from such time requirements, and 3) the prejudice suffered by the other party by such failure to comply with the time requirements.

3) The Prefiled Testimony by DHEC's witness, Jeffrey deBessonnet (the "Prefiled Testimony"), was taken to the DHEC mailroom on April 20, 2005 by Angela Gehr, Legal Assistant in the Office of General Counsel at DHEC (see Attachment, Affidavit of Angela Gehr) to be postmarked and mailed in accordance with the Notice. Unbeknownst to Ms. Gehr, the DHEC mailroom held the mail delivered until the following morning for presorting. Therefore, the failure to postmark the Prefiled Testimony by April 20, 2005 was completely unintentional.

4) The Prefiled Testimony was postmarked on April 21, 2005 and received by the Commission on April 21, 2005, according to the Docket Management System of the Commission.

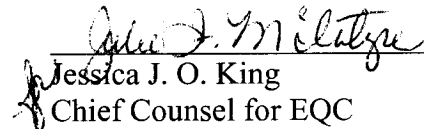
5) Under Paragraph 2 of the Notice, the testimony was required only to be postmarked by this date, unlike the requirements of Paragraph 3 and 4 which required the testimony and exhibits to be in the hands of the parties on those dates; therefore, the Commission anticipated that mailing time would be involved for a party's receipt of the Prefiled Testimony. Counsel for Applicant indicates such Prefiled Testimony was received on April 22, 2005.

6) DHEC believes that it is clear that any deviation was unintentional, minor in variance, and not prejudicial to the Applicant; however, DHEC has no objection to an extension of time to April 28, 2005 as requested by Applicant's counsel.

7) In addition to requesting that the Prefiled Testimony be excluded as untimely, Applicant's counsel also objects to the Prefiled Testimony as being beyond the scope of the hearing. DHEC respectfully disagrees. The Applicant has proposed to modify the language in the Tariff addressing the interconnection rates, although the rate structure itself has not been changed; therefore, that section of the application is capable of being addressed in this hearing. In addition, the Applicant has alleged as part of the Application that the rate change is required to comply with environmental requirements. The Prefiled Testimony indicates that the current and proposed rate structures fail to insure that the Applicant will comply with environmental requirements; in fact, such a rate structure can actually cause an operator to be in noncompliance with its permit conditions. Nonetheless, DHEC asserts that the Commission can only adequately and accurately determine the appropriateness of the Prefiled Testimony to the May 4, 2005 hearing by allowing DHEC's witness to testify at such hearing and the parties to address their positions and objections at that time.

WHEREFORE, having fully set forth its response to Applicant's Motion for Order Prohibiting Introduction or Admission of Testimony, DHEC respectfully requests that the Commission deny such motion.<sup>1</sup>

April 25, 2005  
Columbia, South Carolina

  
Jessica J. O. King  
Chief Counsel for EQC  
South Carolina Department of Health  
& Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201-1708  
(803) 898-3350  
(803) 898-3367 (FAX)

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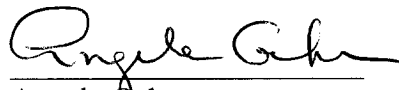
<sup>1</sup> If the Commission excludes the Prefiled Testimony as beyond the scope of the hearing and overrules DHEC's strenuous objection to such exclusion, DHEC moves that it be allowed to make an offer of proof for such evidence under S.C. Code Ann. Regs. R. 103-873.B.

STATE OF SOUTH CAROLINA  
BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

DOCKET NO. 2004-357-W/S

Carolina Water Service, Inc. –	)	
Application for Adjustment of Rates	)	
And Charges and Modification of	)	INTERVENOR'S RESPONSE TO MOTION FOR
Certain Terms and Conditions for	)	ORDER PROHIBITING INTRODUCTION OR
the Provision of Water and Sewer	)	ADMISSION OF TESTIMONY
Service	)	
_____	)	

I, Angela Gehr state that on April 20, 2005 I prepared a Certificate of Service to serve upon the parties of record with DHEC's ***Prefiled Direct Testimony of Jeffrey P. deBessonnet*** in the above-entitled case via first class mail with proper postage affixed. Without the knowledge and consent of the Office of General Counsel, the DHEC mailroom withheld the Prefiled Testimony and the Certificate of Service to be presorted the following day, April 21, 2005. No one in the Office of General Counsel was aware of this practice or it would have been made known to the mailroom staff that the above documents were to be date stamped and mailed on the specified date.

  
\_\_\_\_\_  
Angela Gehr

Columbia, South Carolina  
April 25, 2005